

May 1, 2000

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL

SUBJECT: Department of Natural Resources, Water and Land Resources Division File No. **E99CT015**
Proposed Ordinance No. **2000-0154**

Open Space Taxation (Public Benefit Rating System)
Application of **STEVE AND CONNIE CARLSON**
4836 NE 40th Street
Seattle, WA 98105

Location of Property: 14304 – 496th Southeast, North Bend, Washington

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve 5.31 acres for 30 % of market value
Department's Final:	Approve 5.31 acres for 30 % of market value
Examiner:	Approve 5.31 acres for 30 % of market value

PRELIMINARY REPORT:

The Department of Natural Resources, Water and Land Resources Division Reports on Item No. E99CT015 were received by the Examiner on April 12, 2000.

PUBLIC HEARING:

After reviewing the Department of Natural Resources, Water and Land Resources Division Reports and examining available information on file with the application, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. E99CT015 was opened by the Examiner at 9:28 a.m., April 26, 2000, in the Fifth Floor Conference Room, Union Bank of California Building, 900 Fourth Avenue, Seattle, Washington, and closed at 9:42 a.m.

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owners: Steve and Connie Carlson
4836 NE 40th Street
Seattle, WA 98105

Location: 14304 – 496th Southeast
North Bend, Washington

STR: 17-23-09

Zoning: F

Acreage:

Property Total:	5.64 acres
Requested for Open Space:	5.31 acres
Recommended Open Space:	5.31 acres

Subject of Request:

Priority Resources Requested:

HIGH PRIORITY RESOURCES

Surface water quality buffer area

Significant plant, wildlife or salmonid habitat area

Forest stewardship land

BONUS RESOURCE

Bonus surface water quality buffer

2. The property owners originally applied for Timberland approval. For the reasons indicated in the Department's first review and report (Exhibit No. 4A), the Carlsons revised their application to seek open space (public benefit rating system) approval. Two procedural matters arise from this occurrence:

A. The conclusions and recommendation below are based on the Department's second report (Exhibit No. 4B), not its first (Exhibit No. 4A).

B. A substitute ordinance will be offered to the Council for its consideration because the originally introduced proposed Ordinance No. 2000-0154 addressed the timberland application.

3. Except as modified herein, the facts set forth in the King County Department of Natural Resources, Water and Land Resources Division preliminary report (Exhibit No. 4B) to the King County Hearing Examiner for the April 26, 2000 public hearing are found to be correct and are incorporated herein by this reference. Copies of the second preliminary report (Exhibit No. 4B) will be attached to the copies of this Report submitted to the King County Council.

CONCLUSIONS:

1. Approval of current use valuation for 5.31 acres of the subject property, pursuant to the Public Benefit Rating System adopted by King County Ordinance No. 10511, would be consistent with the purposes and intent of King County to maintain, preserve, conserve and otherwise continue in existence adequate open space lands and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of King County and its citizens.
2. Timely application has been made to King County for the current use valuation of the subject property to begin in 2001. Notice of said application was given in the manner required by law.
3. The subject property contains priority open space resources and is entitled to bonus points pursuant to the King County Public Benefit Rating System, which justify a total award of 20 points. The resulting current use value is 30% of market value for 5.31 acres of the subject property.

RECOMMENDATION:

APPROVE the subject request for current use valuation of 30% of market value for 5.31 acres of the subject property, subject to the conditions recommended in the Department of Natural Resources second preliminary report (Exhibit No. 4B) for the April 26, 2000 public hearing, and, subject further, to the following additional condition:

For land designated as Open Space under the Public Benefit Rating System program, the applicant shall submit the measurements needed to write a legal description of the designed Open Space area not later than July 1, 2000, and this information shall be approved by the Water and Land Resources Division prior to August 1, 2000. The needed measurements are described in Exhibit No. 8.

Current use valuation shall be subject to all terms and conditions of RCW 84.34 and King County Code Chapter 20.36, as the same may be amended from time to time, and all regulations and rules duly adopted to implement state law and county ordinances pertaining to current use valuation.

RECOMMENDED this 1st day of May, 2000.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 1st day of May, 2000, to the following parties and interested persons:

Steve and Connie Carlson
4836 NE 40th Street
Seattle, WA 98105

Tom Beavers, Department of Natural Resources
Monica Clarke, Metropolitan King County Council
Susan Monroe, Department of Assessments
Ted Sullivan, Department of Natural Resources
Charlie Sundberg, Office of Cultural Resources

**NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED**

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) *on or before May 15, 2000*. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before May 22, 2000*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty-one (21) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE APRIL 26, 2000, PUBLIC HEARING ON DEPARTMENT OF
NATURAL RESOURCES FILE NO. E99CT015– CARLSON:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Tom Beavers and Connie Carlson.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Not offered
- Exhibit No. 2 Not offered
- Exhibit No. 3 Not offered
- Exhibit No. 4A Staff Report (Timberland application/not qualified)
- Exhibit No. 4B Staff Report (Open Space application)
- Exhibit No. 5 Legal Notice to Council
- Exhibit No. 6 E-mail from Council Clerk with proposed Ordinance Number
- Exhibit No. 7 Affidavit of Publication
- Exhibit No. 8 Notification to Applicant of hearing
- Exhibit No. 9 Application signed and notarized
- Exhibit No. 10 Not offered 4-26-00
- Exhibit No. 11 Assessor map
- Exhibit No. 12 Notice of Hearing, Office of Hearing Examiner
- Exhibit No. 13 King County Assessor database
- Exhibit No. 14 Site map
- Exhibit No. 15 Arcview map
- Exhibit No. 16 Forest Stewardship Plan
- Exhibit No. 17 Covenants, conditions and restrictions
- Exhibit No. 18 Short Plat recorded with native growth protection easement
- Exhibit No. 19 Letter, to Applicant requesting change in application from timberland to PBRS
- Exhibit No. 20 Letter, from Applicant requesting change in application from timberland to PBRS
- Exhibit No. 21 Condition added to PBRS staff report

This document is provided for information only. DO NOT complete and return. A completed copy will be furnished to the Applicant(s) by the Office of the Hearing Examiner after an application has been approved by the Metropolitan King County Council.

OPEN SPACE TAXATION AGREEMENT

Chapter 84.34 RCW

(To be used for "Open Space", "Timber Land" Classification or "Reclassification" Only)

Owner(s) _____

Granting Authority _____

Legal Description _____

Assessor's Property Tax Parcel or Account Number _____

Department of natural resources File Number _____

This agreement between _____

hereinafter called the "Owner", and _____

hereinafter called the "Granting Authority".

Whereas the owner of the above described real property having made application for classification of that property under the provisions of Chapter 84.34 RCW.

And whereas, both the owner and granting authority agree to limit the use of said property, recognizing that such land has substantial public value as open space and that the preservation of such land constitutes an important physical, social, esthetic, and economic asset to the public, and both parties agree that the classification of the property during the life of this agreement shall be for:

☐ **Open Space Land**

☐ **Timber Land**

Now, therefore, the parties, in consideration of the mutual covenants and conditions set forth herein, do agree as follows:

1. During the term of this agreement, the land shall be used only in accordance with the preservation of its classified use.
2. No structures shall be erected upon such land except those directly related to, and compatible with, the classified use of the land.
3. This agreement shall be effective commencing on the date the legislative body receives the signed agreement from the property owner and shall remain in effect until the property is withdrawn or removed from classification.
4. This agreement shall apply to the parcels of land described herein and shall be binding upon the heirs, successors and assignees of the parties hereto.
5. **Withdrawal:** The landowner may withdraw from this agreement if, after a period of eight years, he or she files a request to withdraw classification with the assessor. Two years from the date of that request the assessor shall withdraw classification from the land, and the applicable taxes and interest shall be imposed as provided in RCW 84.34.070 and 84.34.108.
6. **Breach:** After the effective date of this agreement, any change in use of the land, except through compliance with items (5), (7), or (9), shall be considered a breach of this agreement, and shall be subject to removal of classification and liable for applicable taxes, penalties, and interest as provided in RCW 84.34.080 and RCW 84.34.108.

7. A breach of agreement shall not have occurred and the additional tax shall not be imposed if removal of classification resulted solely from:
- a) Transfer to a governmental entity in exchange for other land located within the State of Washington.
 - b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power in anticipation of the exercise of such power and having manifested its intent in writing or by other official action.
 - c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the land owner changing the use of such property.
 - d) Official action by an agency of the State of Washington or by the county or city where the land is located disallowing the present use of such land.
 - e) Transfer of land to a church when such land would qualify for exemption pursuant to RCW 84.36.020.
 - f) Acquisition of property interests by State agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 (See RCW 84.34.108(5)(f)).
 - g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(d).
 - h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification.
 - i) The creation, sale, or transfer of forestry riparian easements.
 - j) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.
8. The county assessor may require an owner to submit data relevant to continuing the eligibility of any parcel of land described in this agreement.
9. Reclassification as provided in Chapter 84.34 RCW.
- This agreement shall be subject to the following conditions:

It is declared that this agreement specifies the classification and conditions as provided for in Chapter 84.34 RCW and the conditions imposed by this Granting Authority. This agreement to tax according to the use of the property may be annulled or canceled at any time by the Legislature.

Granting Authority:

Dated _____

City or County

Title

As owner(s) of the herein-described land I/we indicated by my/our signature(s) that I am/we are aware of the potential tax liability and hereby accept the classification and conditions of this agreement.

Owner(s)

Dated _____

(Must be signed by all owners)

Date signed agreement received by Legislative Authority _____

To inquire about the availability of this notice in an alternative format for the visually impaired or in a language other than English, please call (360) 753-3217. Teletype (TTY) users may call (800) 451-7985.